

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

D.T.C. 17-6

January 29, 2018

Petition of the State 911 Department for Approval of Request for Response to Procure Telecommunications Relay Service and Captioned Telephone Relay Service

ORDER

I. INTRODUCTION

The Department of Telecommunications and Cable ("DTC") grants the State 911 Department's ("911 Department") request for approval of its request for response ("RFR") to procure telecommunications relay service and captioned telephone relay service. As discussed below, the DTC finds that the RFR is structured to solicit a bid that is both economically feasible and adequate to meet the needs of individuals requiring telephone relay service ("TRS") and captioned telephone relay service ("CapTel").¹

II. PROCEDURAL HISTORY

On November 9, 2017, the 911 Department petitioned the DTC to approve the release of an RFR to procure TRS pursuant to G.L. c. 166, § 15E. *See* Petition of the State 911 Department for Approval of Request for Response to Procure Telecommunications Relay Service and Captioned Telephone Relay Service, D.T.C. 17-6 ("Petition") at 1. Notice of a public hearing on this matter was published in the *Boston Globe* on November 24, 2017, and the *Republican* on November 27, 2017. *See* State 911 Department Proof of Publication Letter, D.T.C. 17-6 (Nov. 28, 2017). The DTC held the public hearing on December 13, 2017, and also solicited written public comment on the Petition. *See* Transcript of Record, D.T.C. 17-6 (Dec. 13, 2017) ("Tr.").

¹ Because TRS and CapTel are both required by Massachusetts statute, this order refers to "TRS" and "CapTel" collectively, as "TRS."

Heidi Reed, Commissioner of the Massachusetts Commission for the Deaf and Hard of Hearing (“MCDHH”), attended the hearing in support of the Petition. *See id.* at 5. The DTC did not receive any other comments at the public hearing and did not receive any written comments. No parties intervened in this proceeding.

III. BACKGROUND

Common carriers providing telephone voice transmission services are required to offer TRS via the 711 dialing code as a toll free call. *See* G.L. c. 166, § 15E (granting the 911 Department responsibility for administering TRS in Massachusetts); 47 C.F.R. § 64.603 (requiring the provision of telecommunications services for hearing- and speech-impaired individuals). A carrier is deemed compliant with this requirement if it provides TRS in compliance with a state program certified with the Federal Communications Commission (“FCC”). *See* 47 C.F.R. § 64.603(b)(2). Massachusetts has certified its state TRS program which meets the minimum federal requirements, and has codified the Massachusetts TRS requirements at G.L. c. 166, § 15E. *See id.* §§ 64.604-.605; *Notice of Certification of State Telecomms. Relay Servs. (TRS) Programs*, CG Docket No. 02-123, *Pub. Notice* (July 8, 2013) (certifying the MassRelay program). The 911 Department currently provides TRS through a third-party contract and wishes to solicit bids for the provision of TRS after the contract expires on June 30, 2018. *See* Petition at 1. The DTC is responsible for the review and approval of the RFR. G.L. c. 166, § 15E(c), (e).

IV. ANALYSIS AND FINDINGS

For the reasons set forth below, the DTC approves the release of the RFR.

When evaluating an RFR, the DTC applies a reasonableness standard. *See Petition of the State 911 Dep’t for Approval of Request for Response to Procure Telecomms. Relay Serv. &*

Captioned Tel. Relay Serv., D.T.C. 12-8, *Order* at 3 (Dec. 20, 2012) (“12-8 Order”); *Petition of Verizon New England d/b/a Verizon Mass. for Approval of its Request for Proposals to Provide Dual-Party Relay Serv. in Mass.*, D.T.C. 07-4, *Order* at 7 (Nov. 13, 2007) (“07-4 Order”); *New England Tel. & Tel. Co. d/b/a Bell-Atl. Mass.*, D.P.U. 98-73, *Order* at 4 (Oct. 2, 1998). Under this standard, the DTC balances the desire to maintain a low cost to ratepayers with due regard for service reliability and quality that are consistent with the public interest. *See* 12-8 Order at 3; 07-4 Order at 7.

The 911 Department’s RFR seeks bids from any provider capable of meeting the specifications set forth therein. RFR at 9. The principal requirements are that the contractor provide full-service, confidential, statewide TRS, including all of the necessary facilities, equipment, software, circuits, telephone service, staff, training, and any other functions necessary to meet federal and state TRS requirements. *See id.* at 11-12. The RFR seeks to contract with a single entity to provide TRS for a term of five years. *Id.* at 10. The RFR requires TRS rates to be quoted in conversation minutes and to remain fixed for the life of the contract. *Id.* at 11, 49-50, 73, Attachment B. The RFR encourages contractors to provide TRS from a facility located within Massachusetts, and using Massachusetts employees. *Id.* at 13. The 911 Department will consult with the MCDHH throughout the procurement process, and the MCDHH reviewed the RFR prior to the 911 Department filing the Petition. Petition at 2; *see also* Tr. at 5.

As the MCDHH has reviewed the RFR and will be consulted throughout the procurement process, the DTC is confident that the RFR will meet the telecommunications access needs of the Deaf, hard of hearing, late-deafened, and deaf-blind individuals in Massachusetts. In addition to meeting the FCC’s minimum requirements for TRS, the RFR also contains extensive customer

service requirements, complaint resolution procedures, and detailed performance measurements designed to ensure a high level of quality and reliability. *See, e.g.*, RFR at 11-12 (incorporating by reference as minimum requirements all current and future FCC standards and regulations for providing TRS), 21-24 (outlining required TRS reliability and traffic standards), 50-53 (outlining required CapTel reliability and traffic standards), 57-58 (requiring general service support standards), 60-62 (requiring certain consumer complaint procedures), 70-73 (outlining required performance measures). The RFR also includes liquidated damages for failure to maintain specific minimum quality standards. *Id.* at 71. In addition, the RFR contemplates incorporation of new technologies into the program over the contract term to improve the overall level of service and capability. *Id.* at 70.

Further, it is apparent that the RFR was drafted with the intent of maintaining a low cost to ratepayers for the services required. The RFR is structured as an open bid. *See id.* at 9. The DTC finds this structure reasonable, as an open-bid format maximizes the opportunity for capable providers to compete for the contract. *See* 12-8 Order at 4. Moreover, the RFR calls for a five-year term. RFR at 10. As the DTC has previously found, multi-year contracts for TRS tend to yield better prices and attract more bidders. *See* 12-8 Order at 4; 07-4 Order at 9 (approving as reasonable an RFR seeking a five-year term for TRS). While the 911 Department will consider more than price in its ultimate evaluation of bids, the RFR is reasonably designed to maximize the opportunity of obtaining TRS at a fair price, while maintaining due regard for service reliability and quality. *See* RFR at 79-80 (listing evaluation criteria).

In sum, the DTC finds that because the RFR meets or exceeds the FCC's TRS requirements, is supported by the Deaf and hard of hearing community, and properly balances TRS price and service quality, the RFR is reasonable and will likely result in a contract that is in


the public interest. Accordingly, the DTC approves the 911 Department's request to release the RFR.

V. ORDER

After notice, hearing, and due consideration, it is

ORDERED: That the State 911 Department Request for Response to Procure Telecommunications Relay Service and Captioned Telephone Relay Service, filed with the DTC on November 9, 2017, is hereby approved.

By Order of the DTC,


Karen Charles Peterson
Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may be brought to the Federal Communications Commission pursuant to 47 C.F.R. § 76.944.